

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

AMERICAN PAPER & PULP CO., INC.

Claim No. CU-0022

Decision No. CU-249

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered September 6, 1967
Hearing on the record requested

Hearing on the record held on October 18, 1967

FINAL DECISION

By Proposed Decision dated September 6, 1967, the claim was denied for
claimant's failure to meet the burden of proof.


Claimant objected to the Proposed Decision contending that it has
already submitted proof of its claim.

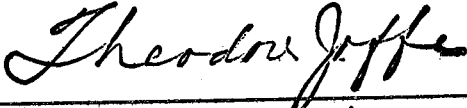
Full consideration having been given to the entire record, including
claimant's objections it is

ORDERED that the Proposed Decision be and it is hereby affirmed as
the Final Decision of the Commission in this claim.

Dated at Washington, D.C.,
and entered as the Final
Decision of the Commission

OCT 25 1967


Edward D. Re, Chairman


Theodore Jaffe, Commissioner


LaVern R. Dilweg, Commissioner

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PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$3,495.98, was presented by AMERICAN PAPER & PULP CO., INC. and is based upon the asserted loss of payment for merchandise shipped to Cuba.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Section 502(1) of the Act defines the term "national of the United States" as "(B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

By Commission letters of June 17, 1966 and May 31, 1967 to claimant, suggestions were made concerning the evidence necessary to establish its claim under the Act.

By letter dated June 21, 1967, the claimant, by its President, Adalbert Greiner, informed the Commission that following the claimant's dissolution on January 8, 1965 and subsequent liquidation, all the files ending December 31, 1964 had been destroyed and that accordingly he was unable to submit the evidence suggested by the Commission. No evidence has since been submitted other than evidence pertaining to the United States nationality of several of the shareholders.

The Commission finds therefore that claimant has not met the burden of proof in that it has failed to establish ownership of rights and interests in property by a national of the United States which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

SEP 6 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)